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CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
DEPUTY	

7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE DISTRICT OF ARIZONA

9 United States of America,  
10  
11 Plaintiff,

12 vs.

13 Andrew Scott,  
14 Defendant.

CR-22-02647-RM(MAA)

PLEA AGREEMENT

15 The United States of America and the defendant, Andrew Scott, agree to the  
16 following disposition of this matter:

17 PLEA

18 The defendant agrees to plead guilty to an Information charging the defendant with  
19 conspiracy to export firearms, in violation of Title 18, United States Code, Sections 371  
20 and 554(a). The defendant also agrees not to contest the Forfeiture Allegation in the  
21 Indictment.

22 ELEMENTS OF THE CRIME

23 1) Beginning from a time unknown, and ending on or about November 9, 2022,  
24 there was an agreement between two or more persons to commit at least one crime as  
25 charged in the information;

26 2) The defendant became a member of the conspiracy knowing of at least one of its  
27 objects and intending to help accomplish it; and  
28

1           3) One of the members of the conspiracy performed at least one overt act for the  
2 purpose of carrying out the conspiracy.

3                           STIPULATIONS, TERMS AND AGREEMENTS

4           The defendant understands the guilty plea is conditioned upon the following terms,  
5 stipulations, and requirements:

6                                   Maximum Penalties

7           The defendant understands and agrees that the maximum penalty for the offense to  
8 which he is pleading are a fine of \$250,000, a maximum term of five (5) years  
9 imprisonment, or both, and a maximum term of three (3) years supervised release. A  
10 maximum term of probation is five years, including a minimum term of one year if  
11 probation is imposed.

12           The defendant agrees to pay a fine unless the defendant establishes the applicability  
13 of the exceptions contained in § 5E1.2(e) of the Sentencing Guidelines.

14           Special Assessment: The defendant understands that in accordance with Title 18,  
15 United States Code, Section 3013, upon entry of judgment of conviction, there shall be  
16 assessed a \$100.00 special assessment for each felony count.

17                                   Immigration consequences

18           The defendant recognizes that pleading guilty may have consequences with respect  
19 to his/her immigration status if the defendant is not a citizen of the United States. Under  
20 federal law, a broad range of crimes are removable offenses, including the offense(s) to  
21 which the defendant is pleading guilty. Removal and other immigration consequences are  
22 the subject of a separate proceeding, however, and the defendant understands that no one,  
23 including the defendant's attorney or the district court, can predict to a certainty the effect  
24 of the defendant's conviction on the defendant's immigration status. The defendant  
25 nevertheless affirms that he/she wants to plead guilty regardless of any immigration  
26 consequences that this plea may entail, even if the consequence is the defendant's  
27 automatic removal from the United States.

Agreement Regarding Sentencing:

a. Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the United States and the defendant stipulate and agree that the below guideline calculations are appropriate for the charge for which the defendant is pleading guilty, if the defendant is entitled to Acceptance of Responsibility:

Base Offense Level (§ 2M5.2(a)(2))	26
Acceptance (§ 3E1.1(a) and (b))	<u>-3</u>
Total Adjusted Offense Level	23

b. Sentencing Range: Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the United States and the defendant stipulate and agree that the following are the applicable guideline ranges for the offense, based on the defendant's criminal history category (CHC):

46 - 57 months imprisonment if the defendant is in CH category I;  
 51 - 60 months imprisonment if the defendant is in CH category II;  
 57 - 60 months imprisonment if the defendant is in CH category III;  
 60 months imprisonment if the defendant is in CH category IV;  
 60 months imprisonment if the defendant is in CH category V;  
 60 months imprisonment if the defendant is in CH category VI.

**The parties stipulate that the defendant's sentence shall not exceed the low end of the applicable guideline range as calculated under U.S.S.G. § 1B1.1(a).** The defendant may withdraw from the plea agreement if he/she receives a sentence that exceeds the low end of the applicable guideline range as calculated under U.S.S.G. § 1B1.1(a).

If the defendant moves for any adjustments in Chapters Two, Three, or Four of the Sentencing Guidelines or any "departures" from the Sentencing Guidelines, the government may withdraw from this agreement. If the defendant argues for a variance under 18 U.S.C. 3553(a) in support of a sentence, the government may oppose the requested variance. The government, however, will not withdraw from the agreement if the defendant argues for, and the Court grants, a variance.

c. Assets and Financial Responsibility. The defendant shall make a full accounting of all assets in which the defendant has any legal or equitable interest. The defendant shall not (and shall not aid or abet any other party to) sell, hide, waste, spend, or

1 transfer any such assets or property before sentencing, without the prior approval of the  
2 United States (provided, however, that no prior approval will be required for routine, day-  
3 to-day expenditures). The defendant also expressly authorizes the United States Attorney's  
4 Office to immediately obtain a credit report as to the defendant in order to evaluate the  
5 defendant's ability to satisfy any financial obligation imposed by the Court. The defendant  
6 also shall make full disclosure of all current and projected assets to the U.S. Probation  
7 Office immediately and prior to the termination of the defendant's supervised release or  
8 probation, such disclosures to be shared with the U.S. Attorney's Office, including the  
9 Financial Litigation Unit, for any purpose. Finally, the defendant shall participate in the  
10 Inmate Financial Responsibility Program to fulfill all financial obligations due and owing  
11 under this agreement and the law.

12 d. Acceptance of Responsibility. If the defendant makes full and complete  
13 disclosure to the U.S. Probation Office of the circumstances surrounding the defendant's  
14 commission of the offense, and if the defendant demonstrates an acceptance of  
15 responsibility for this offense up to and including the time of sentencing, the United States  
16 will recommend a two-level reduction in the applicable Sentencing Guidelines offense  
17 level pursuant to U.S.S.G. § 3E1.1(a). If the defendant has an offense level of 16 or more,  
18 the United States will move the Court for an additional one-level reduction in the applicable  
19 Sentencing Guidelines offense level pursuant to U.S.S.G. § 3E1.1(b).

20 The defendant understands and agrees that this plea agreement contains all the  
21 terms, conditions, and stipulations regarding sentencing. If the defendant requests or if the  
22 Court authorizes any reduction of sentence not specifically agreed to in writing by the  
23 parties, the government may withdraw from the plea agreement.

24 If the Court departs from the terms and conditions set forth in this plea agreement,  
25 either party may withdraw.

26 If the Court, after reviewing this plea agreement, concludes any provision is  
27 inappropriate, it may reject the plea agreement and allow the defendant an opportunity to  
28

1 withdraw the defendant's guilty plea, all pursuant to Rule 11(c)(5) and Rule 11(d)(2)(A),  
2 Fed. R. Crim. P.

3 The defendant understands that if the defendant violates any of the conditions of the  
4 defendant's supervised release, the supervised release may be revoked. Upon such  
5 revocation, notwithstanding any other provision of this agreement, the defendant may be  
6 required to serve an additional term of imprisonment or the defendant's sentence may  
7 otherwise be altered.

8 The defendant and the government agree that this agreement does not in any manner  
9 restrict the actions of the government in any other district or bind any other United States  
10 Attorney's Office.

11 Disclosure of Information to U.S. Probation:

12 The defendant understands the government's obligation to provide all information  
13 in its file regarding the defendant to the United States Probation Office.

14 The defendant understands and agrees to cooperate fully with the United States  
15 Probation Office in providing:

- 16 a. All criminal history information, i.e., all criminal convictions as defined under  
17 the Sentencing Guidelines.  
18 b. All financial information, i.e., present financial assets or liabilities that relate to  
19 the ability of the defendant to pay a fine or restitution.  
20 c. All history of drug and alcohol abuse which would warrant a treatment condition  
21 as part of sentencing.  
22 d. All history of mental illness or conditions which would warrant a treatment  
23 condition as part of sentencing.

24 Agreement as to Forfeiture, Abandonment and Destruction:

- 25 a. Defendant acknowledges the foregoing assets have been administratively  
26 forfeited by the Bureau of Alcohol, Tobacco, Firearms, and Explosives: one Browning  
27 Machine Gun, model M2 rifle bearing serial number 429745, 999 rounds of 9mm caliber  
28 ammunition, and Browning M2 rifle part kits.



1           b. Defendant further agrees to abandon any and all interest the defendant has in  
2 the following:

- 3           • D.C. Industries NDS-5 7.62 mm caliber rifle with serial number 437221
- 4           • Pioneer Arms Hellpup 7.62 mm caliber rifle with serial number
- 5           PAC1166457
- 6           • Colt .223 caliber carbine with serial number CR043137
- 7           • Arsenal SLR95 7.62 caliber rifle with serial number K0371006
- 8           • Zastava N-PAP DF 7.62 mm caliber rifle with serial number
- 9           NPDF010852
- 10          • Century Arms International VSKA 7.62 mm caliber rifle with serial
- 11          number SV7083237
- 12          • Zastava 7.62 mm pistol with serial number Z92-097946
- 13          • DPMS A15 .223 caliber rifle with serial number F178791K
- 14          • Colt Woodsman .22 caliber pistol with serial number 30421S
- 15          • Glock 17 9mm pistol with serial number BVGG157
- 16          • Glock 19x 9mm pistol with serial number BPTF509

17          c. Defendant knowingly and voluntarily agrees not to pursue any filed claims,  
18 withdraw any filed claims, and to waive all interest in the assets listed above, in any  
19 administrative, civil, or criminal judicial proceeding, whether state or federal, which may  
20 be initiated.

21          d. Defendant knowingly and voluntarily waives all constitutional, legal and  
22 equitable defense to the forfeiture of the assets in any proceeding. Defendant agrees to  
23 waive any jeopardy defense or claim of double jeopardy, whether constitutional or statutory  
24 and agrees to waive any claim or defense under the Eighth Amendment to the United States  
25 Constitution, including any claim of excessive fine, to the forfeiture of the assets by the  
26 United States.

1 e. Defendant knowingly and voluntarily agrees to hold the United States, its  
2 agents and employees harmless from any claims whatsoever in connection with the seizure  
3 or forfeiture of the above-listed assets.

4 f. Defendant knowingly and voluntarily agrees and understands the  
5 administrative forfeiture of the assets listed above shall not be treated as satisfaction of any  
6 assessment, fine, restitution, cost of imprisonment, or any other penalty this Court may  
7 impose upon the defendant.

8 g. Defendant further agrees and understands that the government will dispose  
9 of the assets as authorized by law, which may include destruction of the seized items. The  
10 defendant agrees that the items may be destroyed by the investigative agency with or  
11 without a court order authorizing the destruction of the items seized. If the United States  
12 determines that a destruction order should be obtained, the defendant and defendant's  
13 counsel hereby concur in a motion for such an order.

14 Reinstitution of Prosecution:

15 If the defendant's guilty plea is rejected, withdrawn, vacated, or reversed by any  
16 court in a later proceeding, the government will be free to prosecute the defendant for all  
17 charges as to which it has knowledge, and any charges that have been dismissed because  
18 of this plea agreement will be automatically reinstated. In such event, the defendant waives  
19 any objections, motions, or defenses based upon the Speedy Trial Act or the Sixth  
20 Amendment to the Constitution as to the delay occasioned by the later proceedings.

21 Waiver of Defenses and Appeal Rights:

22 the defendant receives a sentence in accordance with this plea agreement, the  
23 defendant waives (1) any and all motions, defenses, probable cause determinations, and  
24 objections that the defendant could assert to the indictment or information; and (2) any  
25 right to file an appeal, any collateral attack, and any other writ or motion that challenges  
26 the conviction, an order of restitution or forfeiture, the entry of judgment against the  
27 defendant, or any aspect of the defendant's sentencing-including the manner in which the  
28 sentence is determined, the determination whether defendant qualifies for "safety valve"

(U.S.S.G. § 5C1.2 and 18 U.S.C. § 3553(f)), and any sentencing guideline determinations, including the district court's determination of the criminal history category. The sentence is in accordance with this agreement if the sentence imposed does not exceed the low end of the sentencing guidelines range as calculated under U.S.S.G. § 1B1.1(a). The defendant further waives: (1) any right to appeal the Court's entry of judgment against the defendant; (2) any right to appeal the imposition of sentence upon defendant under Title 18, United States Code, Section 3742 (sentence appeals); (3) any right to appeal the district court's refusal to grant a requested variance; (4) any right to collaterally attack defendant's conviction and sentence under Title 28, United States Code, Section 2255, or any other collateral attack; and (5) any right to file a motion for modification of sentence, including under Title 18, United States Code, Section 3582(c) (except for the right to file a compassionate release motion under 18 U.S.C. § 3582(c)(1)(A) and to appeal the denial of such a motion). The defendant acknowledges that this waiver shall result in the dismissal of any appeal or collateral attack the defendant might file challenging his/her conviction or sentence in this case. If the defendant files a notice of appeal or a habeas petition, notwithstanding this agreement, defendant agrees that this case shall, upon motion of the government, be remanded to the district court to determine whether defendant is in breach of this agreement and, if so, to permit the government to withdraw from the plea agreement. This waiver shall not be construed to bar an otherwise-preserved claim of ineffective assistance of counsel or of "prosecutorial misconduct" (as that term is defined by Section II.B of Ariz. Ethics Op. 15-01 (2015)).

#### Plea Addendum

This written plea agreement, and any written addenda filed as attachments to this plea agreement, contain all the terms and conditions of the plea. Any additional agreements, if any such agreements exist, shall be recorded in separate documents and may be filed with the Court under seal. Accordingly, additional agreements, if any, may not be in the public record.



1                    WAIVER OF DEFENDANT'S RIGHTS AND FACTUAL BASIS

2                    Waiver of Rights

3            I have read each of the provisions of the entire plea agreement with the assistance  
4 of counsel and understand its provisions. I have discussed the case and my constitutional  
5 and other rights with my attorney. I understand that by entering my plea of guilty I will be  
6 giving up my rights to plead not guilty, to trial by jury, to confront, cross-examine, and  
7 compel the attendance of witnesses, to present evidence in my defense, to remain silent  
8 and refuse to be a witness against myself by asserting my privilege against self-  
9 incrimination -- all with the assistance of counsel -- and to be presumed innocent until  
10 proven guilty beyond a reasonable doubt.

11           I agree to enter my guilty plea as indicated above on the terms and conditions set  
12 forth in this agreement.

13           I have been advised by my attorney of the nature of the charges to which I am  
14 entering my guilty plea. I have further been advised by my attorney of the nature and range  
15 of the possible sentence.

16           My guilty plea is not the result of force, threats, assurances or promises other than  
17 the promises contained in this agreement. I agree to the provisions of this agreement as a  
18 voluntary act on my part, rather than at the direction of or because of the recommendation  
19 of any other person, and I agree to be bound according to its provisions.

20           I fully understand that, if I am granted probation or placed on supervised release by  
21 the court, the terms and conditions of such probation/supervised release are subject to  
22 modification at any time. I further understand that, if I violate any of the conditions of my  
23 probation/supervised release, my probation/supervised release may be revoked and upon  
24 such revocation, notwithstanding any other provision of this agreement, I may be required  
25 to serve an additional term of imprisonment or my sentence may otherwise be altered. I  
26 agree that any Guidelines Range referred to herein or discussed with my attorney is not  
27 binding on the court and is merely an estimate.

28

1 I agree that this written plea agreement contains all the terms and conditions of my  
 2 plea and that promises made by anyone (including my attorney), and specifically any  
 3 predictions as to the guideline range applicable, that are not contained within this written  
 4 plea agreement are without force and effect and are null and void.

5 I am satisfied that my defense attorney has represented me in a competent manner.

6 I am fully capable of understanding the terms and conditions of this plea agreement.

7 I am not now on or under the influence of any drug, medication, liquor, or other intoxicant  
 8 or depressant, which would impair my ability to fully understand the terms and conditions  
 9 of this plea agreement.

#### 10 Factual Basis

11 I agree that the following facts accurately describe my conduct in connection with  
 12 the offense to which I am pleading guilty; and, that if this matter were to proceed to trial,  
 13 the government could prove the elements of the offense beyond a reasonable doubt based  
 14 on the following facts:


15  
 16 From a time unknown to on or about November 10, 2022, in the District of  
 17 Arizona and elsewhere, Defendant Andrew Scott agreed with two or more  
 18 persons to commit a crime, that is: the smuggling of firearms and firearm  
 magazines from the United States into the Republic of Mexico, in violation  
 of 18 USC § 554(a). The defendant became a member of the conspiracy  
 knowing of at least one of its objects and intending to help accomplish it.

19 On January 20, 2022, Andrew Scott was stopped by a Santa Cruz County  
 20 deputy in Nogales, Arizona for a traffic violation while he was driving a red  
 Ford Crown Victoria taxi cab. Scott granted consent to search his trunk and  
 the deputy found several rifles and handguns including the following:

- 21 • D.C. Industries NDS-5 7.62 mm caliber rifle with serial number 437221
- 22 • Pioneer Arms Hellpup 7.62 mm caliber rifle with serial number  
PAC1166457
- 23 • Colt .223 caliber carbine with serial number CR043137
- 24 • Arsenal SLR95 7.62 caliber rifle with serial number K0371006
- 25 • Zastava N-PAP DF 7.62 mm caliber rifle with serial number  
NPDF010852
- 26 • Century Arms International VSKA 7.52 mm caliber rifle with serial  
number SV7083237
- 27 • Zastava 7.62 mm pistol with serial number Z92-097946
- 28 • DPMS A15 .223 caliber rifle with serial number F178791K
- Colt Woodsman .22 caliber pistol with serial number 30421S
- Glock 17 9mm pistol with serial number BVGG157
- Glock 19x 9mm pistol with serial number BPTF509

On November 8, 2022, Scott was encountered by ATF agents while possessing a Browning M2 model firearm with serial number 429745. On the same date, he was also in possession of 999 rounds of 9mm ammunition which was stored in a storage locker in Nogales, Arizona. Scott possessed the firearm and ammunition knowing that they would be transferred out of the United States. Scott knowingly possessed the firearms and ammunition and had the power and intention to control them.

9-20-23  
Date

*with*  
*Devinson*  
  
\_\_\_\_\_  
Andrew Scott  
Defendant

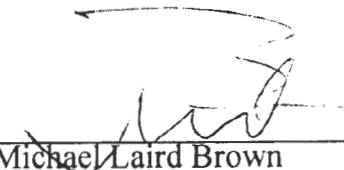
I have discussed this case and the plea agreement with my client, in detail and have advised the defendant of all matters within the scope of Fed. R. Crim. P. 11, the constitutional and other rights of an accused, the factual basis for and the nature of the offense to which the guilty plea will be entered, possible defenses, and the consequences of the guilty plea including the maximum statutory sentence possible and Defendant's waiver of her right to appeal. I have further discussed the sentencing guideline concept with the defendant. No assurances, promises, or representations have been given to me or to the defendant by the United States or by any of its representatives which are not contained in this written agreement.

- 11 -



1 9. 10. 23

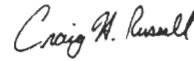
2 Date

  
Michael Laird Brown  
Attorney for the defendant

3  
4  
5 GOVERNMENT'S APPROVAL

6 I have reviewed this matter and the plea agreement. I agree on behalf of the United  
7 States that the terms and conditions set forth are appropriate and are in the best interests of  
8 justice.

9  
10 GARY M. RESTAINO  
United States Attorney  
District of Arizona

11 

Digitally signed by CRAIG  
RUSSELL  
Date: 2023.08.07 09:55:16  
-07'00'

12  
13 Date

CRAIG H. RUSSELL  
Assistant U.S. Attorney